IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.225 OF 1995.

Anant Krishna Gavade : Appellant.

versus

Amrutbhai G. Patel & ors. : Respondents.

Mr.G.S.Hegade with Mr.Lokesh for the appellant.

None for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 11th APRIL 2005.

ORAL ORDER

1. Heard Mr.Hegade for the appellant. Nobody is present for the respondents though served. The Appellant was a 9 years old boy when he met with an accident which resulted in fracture of the right femer middle of the applicant/appellant. He has suffered permanent

disability to the extent of 10 to 12 percent. He is limping and could not walk normally. The whole career of the appellant/applicant is spoiled because of the accident. The tribunal observed, "If we take into consideration the earning capacity of the applicant as Rs.1200/- per month, then the loss of earning for 30 years will come to Rs.50,000/- to Rs.60,000/-. But in the present case, no reliable evidence is led on behalf of applicant to prove the exact loss of earning by the applicant." This is not a proper approach to look at the accident in the case of minor boy suffered from such accident. The tribunal should have considered the future life; his dependency because of the accident and the defect that is to remain with him permanently. Giving compensation of Rs.25,000/- is not at all proper. In the circumstances though the claimant has claimed Rs.Two lacs, Rs.80,000/- would be proper. Hence the order :-

:ORDER:

The appeal is partly allowed.

The order of the tribunal is modified. The claimant will be entitled to Rs.80,000/- in all with interest and costs as awarded by the tribunal.

Since nobody is present for the respondents in the appeal, no order as to costs.

[D.G.DESHPANDE]

11/04/2005 JUDGE.